

**BUTTE-SILVER BOW LOCAL GOVERNMENT  
STUDY COMMISSION**

**Minutes of the Meeting  
October 20, 2005**

**Butte-Silver Bow Courthouse, First Floor Conference Room**

**Meeting Date:** October 20, 2005

**Time:** 5:30 p.m.

**Place:** Butte-Silver Bow Courthouse, First Floor Conference Room

**Call to Order:** Chairman Bob Worley brought the meeting to order at 5:36 p.m. and called roll with the following results:

**Members Present:** Ristene Hall, Tony Bonney, Dave Palmer, Meg Sharp, Northey Tretheway, Cindi Shaw and Bob Worley

**Excused Absences:** Wayne Harper, Ron Rowling, Shag Miller

**Approval of Minutes:** Minutes from October 13, 2005 approved with corrections.

**Comments from Ron Rowling:** Absent

**Citizen's Comments:** None.

**Items Not On Agenda:** Bob Worley made mention of the handout from Fritz Daily regarding Superfund. Bob Worley visited earlier in the week with Rob Macioroski concerning the GIS office. He also visited with Mary McMahon and her thoughts are that the Land Records Department should stay in the Clerk and Recorder's Office and she vows to fight it if the Study Commission tries to remove it from there. Rob's thoughts are that it should be an office and an appointment that would have a department head. Bob Worley asked Mary to write up some of her ideas on this including the Superintendent of Schools and realigning/redistricting the commission members.

Tony Bonney asked if they should get something in writing from the chairman who was in the council in 1996 on why they created it and how they intended it to be created. Bob Worley replied that he would visit with Jim Michelotti on that.

Bob Worley mentioned that Dave suggested having both Mary McMahon and Rob Macioroski back in if they run into problems with this issue. Tony Bonney suggested also having Jim Michelotti present to explain why they wanted to create a Land Records Office.

Bob Worley commented that he was going to contact the Great Falls Study Commission on Citizen's Committees that would serve under the commissioners. Bob is waiting for a reply. Bob brought to everyone's attention the article in the paper regarding the Chief Executive. Bob commented that they made a couple of statements in the newspaper; one that they have previously discussed was removing the term "at the pleasure of". They suggested in the article to do this as a political appointee. Bob Worley commented that he did not think they had an option to do that. He thought state law would override them anyway. Bob suggested that they ask Bob McCarthy. Northey Tretheway asked if the language they have talked about is sufficient enough to cover what those concerns are. It would follow state law.

Tony Bonney replied that he thought state law would make their decision on past practices. They could make a suggestion on future practices. Tony stated according to the article is stated it was never intended for long-term employees which he understands. However, if people are appointed to this from now on, they need to understand that the charter reflects that the Chief Executive may change these. It would be their intent to do it under that. Tony stated that the Chief Executive should have the ability to change it.

Northey Tretheway replied that he did not think you could. Bob Worley replied that the Wrongful Termination Act is going to override. Bob Worley stated that you could not eliminate a job just because you want a new department head. Northey Tretheway replied that it is just not eliminate. In the phrasing of the notes, Wayne Harper mentioned that you could not materially reduce the responsibility of someone.

Bob Worley thought maybe Wayne Harper's e-mail would clear this matter. He included language for subsection (j) of Section 3.03, which read to make any and all changes required by a change in law, either codified or finalized by appeal, the Council of Commissioners may make these changes by ordinance, without the necessity of amending this Charter.

Northey replied that does not cover what they were talking about earlier.

Ristene Hall brought up today's newspaper article and read from it. Ristene commented that the difference was Brian Schweitzer was making a political appointment, not replacing people who have long careers in state government. Ristene stated those jobs are actually not long careers in government, they are four year jobs. Every Chief Executive that came in could have replaced any one of them or changed their position. Ristene Hall explained that Jim Johnston got his job from Don Peoples. Ristene commented that Jim lost his job pretty much the way he got it.

Bob Worley commented the Wrongful Termination Act that happened in 1997 could explain the problem.

Bob McCarthy commented that the Federal Judge has rules contrary to everything they say. Bob McCarthy commented that if they think the Montana Standard has more control or knowledge than the Federal Judge, then they are wasting everybody's time. Bob McCarthy stated it has already been decided that the county is liable. It has already been decided that the Chief Executive was wrong. It has already been decided that what the Chief Executive did was illegal.

Tony Bonney replied that it is still subject to appeal.

Bob Worley commented that their intention tonight is to discuss how the charter can be changed so that it does not happen again. Bob McCarthy replied there is only one way it can be changed so it does not happen again and that is to remove the language "at the pleasure of". Bob McCarthy explained that the Study Commission could not rewrite the charter since that would be unconstitutional so the only thing they could do is change the Montana Constitution.

Bob McCarthy told Ristene everything she was reading from the Montana Standard article was wrong. Ristene asked so the fact that the department heads can only be a four-year job is wrong? Bob McCarthy replied absolutely.

Meg Sharp asked Bob McCarthy during a ten-year period between Study Commissions, could the Council of Commissioners present a change in the charter to the voters? Bob McCarthy replied that anybody could. Meg asked then why wasn't it done? Bob McCarthy replied that was a good point. Bob stated the reason it was not done was because it was anticipated there was going to be Study Commission this year. Bob McCarthy stated nobody anticipated that you would have an elected official ignore legal advice. Bob continued to state that nobody anticipated that you would have a person deliberately and intentionally ignore the advice of contract. That is why.

Meg Sharp replied that Bob McCarthy should have taken that to council to have it done. Bob McCarthy replied why should he have to. Meg Sharp replied because he is the legal authority. Bob McCarthy replied that he gave the Chief Executive an opinion that he ignored. Bob McCarthy stated the taxpayers are all paying for this and they are going to have to pay a lot. Bob McCarthy stated it is going to be very expensive.

Ristene Hall asked who makes that decision? Bob McCarthy replied the federal court. Ristene Hall mentioned there was some conflict of interest or personal interest with Mike Kerns. Ristene Hall commented that Jennifer Kerns was hired and not through the actual hiring process so there may have been a little favor that needs to be returned. Tony commented that she was hired through Jim Johnston as

Public Spokesperson for the Public Works Department. She was hired without a degree or experience in the job. Therefore it could be conceived that Mike Kerns owes Jim Johnston a favor for what he did. Ristene Hall commented that is what the citizens of Butte are saying. Bob McCarthy replied, really. Bob McCarthy asked that is a conflict of interest? Tony replied he thought so. Bob McCarthy replied what the citizens are telling him is how much is this going to cost and what is going to be done about it.

Tony Bonney replied that he thought that type of personal interest should be eliminated to avoid future problems. Bob McCarthy asked how should they do that. Tony replied that Mike Kerns should step down from the board.

Dave Palmer changed the subject and asked Bob McCarthy if the state department heads are under a four-year contract. Bob McCarthy replied there are 19 positions and there is a constitutional provision that states the department heads appointed during the term of the governor is in the constitution. That is the reason it is not unconstitutional. That is why you would have to change the constitution to allow it.

Dave Palmer mentioned a section in the charter they would be reviewing regarding the administrative assistant where people appoint one assistant to do basically the same job. If the current or future Chief Executive appointed that position, it is basically a lifetime job? Could that be made a four-year contract? Would that be legal? Bob McCarthy replied that anybody could do that. Bob McCarthy stated whether or not you could hire someone for a contract beyond the term of your employment or office is a different question. Dave Palmer asked if a new Chief Executive takes office and they want to hire their own person to be Director of Public Works and have them do it on a four-year contract, could it be put in the charter to have it done that way? Bob McCarthy replied that he did not think they could mandate because they do not have any authority over labor laws. Labor laws are all pre-empted by the state.

Tony Bonney asked if that could happen if the counties took over the electric company. Could they do that with the department head on the electric where it would only be valid during the term of the people that were on the board? Bob McCarthy replied this power authority at present time is a non-profit corporation. It is anticipated if that is approved there will be legislation passes where we look like every state in the west. Bob McCarthy stated that there is no provision for public power in the State of Montana. What is anticipated, if it is approved there will be legislation adopted where it will look like it does in other states. In some states the boards are appointed, in some states they are elected or they are a combination of appointed and elected.

Bob Worley mentioned the article in today's paper about Northwestern and the cities that it had not passed the Missoula council and they are not totally in favor of it. Bob McCarthy mentioned that there were two people quoted in the paper that stated they did not like it. Bob Worley replied that he felt this was not the best thing for Butte either. Bob Worley commented if they were getting generation back, he would be more in favor of that but just to get distribution, he was not sure they would be getting what they want. Bob McCarthy replied that was a good point.

Northey Tretheway commented that he understands they are investigating PP & L as a monopoly in the state. Northey explained the piece that is the most risky to Montana is the supply side, the gas and the electricity. That is where the focus should be. Northey stated if they were going to buy the wires and pipes and then go build some more power plants, what would we be gaining? Northey stated that we would be gaining some competition to a degree but there is already 1400 mega watts spinning reserve in Montana that is not regulated. Bob McCarthy replied we are gaining a couple of things. Bob McCarthy explained first, even if it takes four years for the State of Montana to again become self-reliant it is better then not doing it in four years. Northey asked if you could re-regulate PP & L? Could you regulate it just because there is not competition in the state? Bob McCarthy was not sure if they could do that or not. He thinks if you build a generation or even threaten to build generation it would keep the price down. Bob McCarthy thinks PP & L could be acquired just like this. Bob McCarthy commented that he thinks the gas is more complicated. Montana Power had gas and sold that part of it. That is much more difficult. Northey replied it is more difficult but when you have power that you could use in the swap markets and trade gas for electricity, it gives you an edge.

Bob McCarthy spoke about the Montana Standard and how they recite the facts and draw ridiculous conclusions. Bob McCarthy mentioned that the newspaper did not defend the Chief Executive and they have to conceive his loss. Bob McCarthy stated that we all lost and it is a very big and bad thing that we are going to pay big time for it.

Meg Sharp replied the voters voted for change.

Bob McCarthy replied that the constitution in the State of Montana decides whether you can or cannot do a particular thing. Bob McCarthy explained that the voters all voted for wide open gambling and the State of Montana does not have it. The reason is because as part of the State of Montana, we are regulated by the Montana State Constitution and that is the issue here. You can only do what is legal in the State of Montana.

Tony Bonney asked if the charter could reflect the state constitution? Bob McCarthy replied that it has to. Tony replied that what he was saying is the non-elected department heads on the same level as the state cabinet then the charter could reflect that the non-elected department heads could be appointed every four years? Bob McCarthy replied as long as you amended the State Constitution.

Bob Worley commented that it needs to be understood that the politics changes between the state charter and the type of government that they are doing down there with BSB being combined and all the other seven types of government throughout the State of Montana. They cannot write the charter to reflect what they are doing at the state level as far as appointing department heads because the WTA (Wrongful Termination Act) is going to cover this.

Bob McCarthy explained at the state level, the administration is run on a very political basis. The governor gets elected every four years and the people he selects to be his department heads are large political contributors. Bob stated this is a very partisan election and here we have non-partisan elections. For the most part, this goes back to 1977, people who serve in non-elected positions have been promoted within. Most of them came from their department and were promoted up. There have been a couple of cases where people have been brought in from the outside where specialized knowledge is required such as the librarian or at the hospital. Bob McCarthy mentioned Dave Schultz, as an example, who was brought back from Alabama and hired for his specialized talents. Bob McCarthy mentioned that these people for the most part are promoted within and have not been promoted as a result of a political campaign. Bob McCarthy stated that these people don't change with administrations; they don't change at all.

Tony Bonney replied that Jim Johnston was an equipment operator and was promoted to Public Works Director. Mike Shea was Assistant Public Works Director and was promoted to Finance and Budget Director so there have been just as many appointees that have not been qualified for the job as there was qualified.

Bob McCarthy clarified that Jim Johnston was an operator and was made Road Foreman. He was Road Foreman when he was made Director of Public Works. He was made Public Works Director sometime in the 1980's and was made Road Foreman sometime in the 1970's Mike Shea was hired as an Accountant when he graduated from the University of Montana. He then became Director of Transit for a substantial period of time and then he was promoted to Assistant Public Works Director. He then became the Finance and Budget Director and by this time he had 15 years of experience working in government.

Bob McCarthy mentioned in regard to Jim Johnston and Mike Shea not only was there the Wrongful Discharge Act that was violated but there was a Civil Rights Act that was also violated and that is where the money is going to come in. We are going to pay attorney fees and substantial claims because of civil rights violation because of the treatment. It is going to be very expensive and he will not guess how much it is going to be but whatever the amount, it is too much and it is unnecessary.

Northey Tretheway commented that all of this took place early on the Chief Executive's position and asked about the county being fully liable for his actions. Bob McCarthy replied that is the violent thing. The judge determined that since he was in the position of public policies the county is responsible. Bob McCarthy stated that was the only point they really argued. Bob stated that the county should not be liable.

Bob McCarthy commented that he gave Paul Babb his advice on this issue before he even took office and it was a clear violation on his part. Bob McCarthy stated you could not do that because local legislature and the Supreme Court say you could not do that. Bob McCarthy stated what is different now than before is the Supreme Court changed the rules. They changed the rules in 1997 when they determined in the McMillan case that there is no employment at will in Montana anymore. Bob McCarthy stated that the Wrongful Discharge Act had applied long before that but you could still have employment at will. Bob McCarthy mentioned in 1999 when it happened to Tom Cash that is when they became aware of it. They were not aware of the McMillan case in 1997 or even aware that it had that affect. In 1999, when Tom Cash was terminated by Jack Lynch...what Lynch did is he said he was grading and evaluating Tom Cash and that was not the case. Jack Lynch got rid of Tom Cash because he did not like him and so the county paid. Tom Cash was a great and long time employee. He went through several administrations and was hard working. It was not right or fair that he was terminated.

Bob Worley commented that their intention with the charter is to write it in such a way that it does not happen again.

Northey Tretheway commented that if they change anything it would have to abide by state law. Northey commented that according to Bob McCarthy there is nobody working for BSB that specializes in labor laws and asked if Butte needs that? Bob McCarthy replied that BSB hires labor law attorneys all the time. Bob McCarthy explained it is such a specialized area of law and to practice it one has to do it all the time. If they do not do labor law all the time it would be malpractice.

Bob McCarthy stated that he has tried to hire a labor law attorney for the past ten years but BSB cannot pay enough. BSB could not pay them enough at their scale. They could make more working on their own privately.

Bob McCarthy suggested that whatever they write, they have it reviewed by a labor law attorney.

Bob McCarthy suggested that they put in things that are essential for example, if they want the Chief Executive to make appointments then don't put anymore than that and say nothing about termination. Applicable state law will control termination. Bob stated part of the problem is not only did it change in 1997, it changes all the time. Bob McCarthy stated for the most part these are court created remedies so the courts are legislating.

Dave Palmer commented to Bob McCarthy that at the last meeting, they discussed putting it in the charter so council can make a change if it is in accordance with state law. Dave mentioned the language that Wayne drafted in his e-mail.

End of Tape 1, Side 1

Bob Worley confirmed in Section 4.02 (d) that the language "serve at the pleasure of" should be removed and Bob McCarthy agreed.

Bob McCarthy stated once they get past the first sentence in that paragraph, he thinks it makes good management sense that the Chief Executive gets to appoint all non-elected department heads. Bob McCarthy stated that the second sentence is completely different. This is an area that they, the two original study commissions, one being the City of Butte and the other being Silver Bow County, probably should have left out or written differently because what has happened is there are other sections in the charter that state elected office holders get to appoint their own deputies. There are a lot of other people that work in offices who are not deputies. In the Treasure's Office, less than half of the people are deputies. The other people are covered under that and they work for the Chief Executive. In his office, the lawyers work for him, the secretaries see only him but they do not work for him, they work for the Chief Executive. This makes no sense.

Bob McCarthy suggested that the second sentence in that section of the charter is removed and new language be written that first; the Chief Executive gets to appoint non-elected department heads. Bob McCarthy stated that there are a couple of departments that are under the control of the Chief Executive

and thinks the Chief Executive should have control over those departments such as Public Works and the Fire Department. In other communities, the Law Enforcement Department is under the Chief Executive. Bob McCarthy stated what our charter did was substitute an elected Sheriff for head of the Municipal Police Department. We have a Municipal Police Department; we do not have a deputy sheriff. We have police officers controlled by an elected sheriff who has all the authority of a mayor so the mayor or Chief Executive has no authority over the police.

Bob McCarthy reminded everyone that there are more labor problems in the Law Enforcement Department than every other department in the government combined. Part of the problem is that people who work in the Law Enforcement Department, who are not confirmed officers, do not work for the Sheriff. When there is a grievance, it is the Chief Executive's fault. The Chief Executive has nothing to do with that person, he does not know when he/she gets to work, he does not know if he/she is doing their job, he does not know if he/she is fighting with their co-workers and so forth. That is not good management. Bob McCarthy suggested that the administrative person working in a department be under the control of that department.

Northey Tretheway asked Bob McCarthy if he would attempt writing a draft of that. Northey Tretheway asked if these problems were in existence ten years ago and asked why it was not addressed then? Bob McCarthy replied in 1986, the Study Commission took on a grand revision that went down in flames. It failed terribly. Also tied to it were the elimination of three offices, the auditor, the assessor and the coroner. In 1996, they saw what happened. They decided that was not a good way to handle it so they thought they would handle only minor changes in the charter. Bob McCarthy explained this was not good because there were things in the 1976 charter, that by 1980 were giving them problems. Bob McCarthy stated that he went to the Supreme Court at least ten times by the first five years. The 1996 provisions of the charter eliminated the things that were glaring problems, updated the language and brought it into conformance with the requirements from the various court decisions. They picked three offices, which were the Auditor, the Assessor and the Superintendent of Schools. They did not pick the Coroner. The other amendments passed and the elimination of the three offices did not.

Bob McCarthy stated that he believed a substantial change would be an elimination of offices or if they change the way they perform to pick the sheriff or change the number of commissioners. He did not believe what they were discussing was a substantial change.

Bob McCarthy mentioned in 1996, he mentioned to the Study Commission the part of at will because he felt that is where it was going. The Supreme Court had been nibbling away at it over the last ten years and he thought that it was going to happen. Bob McCarthy was told by a few of them that it was too controversial and they would never get it passed. Bob McCarthy stated that the area particularly where it deals with individual rights and employee rights are a part of individual rights, he thinks it is an area that is going to continue to expand and they should simply rely on whatever the current status of the law is which probably won't be the same five years from now.

Tony Bonney asked if they removed "serve at the pleasure of" and put in accordance with state statute. They have discussed previously how non-elected department heads have a tendency to go to unions now, and asked would it be wise to add after state statute or negotiated labor agreements? Bob McCarthy replied that he did not think they needed anymore in there because it is going to be controlled by whatever the current status of the state labor laws are.

Bob McCarthy explained that Butte, Anaconda and Billings were the first cities in Montana to have charters. Bozeman to this day still does not have a charter. When Missoula wrote their charter they provided that the council appoints the non-elected department heads and do not let the mayor do it. Bob McCarthy stated that is crazy. When they have a change in administration, they do not want the mayor to have anything to do with it. They want to have a professional staff and do not want a political system.

Cindi Shaw asked shouldn't they put in something that will last ten years and no so specific since labor laws change all the time. It could be flexible. Bob McCarthy replied that it should be written with the eye that they don't even have to review this in ten years.

Bob McCarthy made mention of invalid laws that are still in the code because the legislature cannot get the withdrawal passed. Just because it is invalid does not mean it comes out because the legislature still has to pass the code. Most charters in general are pretty short; they speak in broad language and don't have a lot of specifics. Bob McCarthy explained of the seven largest cities in Montana, Butte and Missoula are the only ones that do not have a manager. In five of the seven largest cities, the mayor did not appoint anybody, the manager does. The manager is a person that changes about every five years. In Missoula, the only other city that has a mayor, the mayor cannot appoint anybody. So what they have done in most communities is depoliticize their local government. The problem that occurred with BSB is not likely to happen anywhere else.

Bob McCarthy stated that the Study Commission needs to make the charter so it will last, so it will not have to be reviewed and so as laws change it will not need to be changed. Bob McCarthy thought the simplest way to do this is to write it in broad, conceptual terms.

Tony Bonney referred to section 4.01, subsection (e), the removal of the Chief Executive shall be subject to removal in accordance with state law. Tony asked if there is a question of whether it should be in there or not maybe it should read in accordance with state law? Bob McCarthy replied the reason it was in there was to give comfort to people who wanted to know how it would be done but whether that is in there or not... Tony clarified that what he was saying is if there was a question of language in the charter, such as "at will" if they changed it to where it read in accordance with state law, that would be suffice? Bob McCarthy replied it does not hurt to say that and maybe people will get some assurance from it.

Northey Tretheway commented that he knows Paul Babb from working with him and anytime you have someone who comes into office that is new, he/she could immediately put the city/county in jeopardy, would there be something they could add in the charter that would prevent anything... something that would indemnify the county from decision making of someone who does not know fully the laws. Bob McCarthy replied Montana Law states if one is merely negligent and simply do something wrong, he thinks it is for that reason that communities have managers and not mayors. The reason for managers is they want good non-political govern at the local level. Northey replied that what he was referring to is if Bob McCarthy gave good legal advice not to go forward with the termination, should there be a fail safe method in the initial stages of someone taking office where they cannot put the county in harms way because of decisions that are being made against legal advice from the County Attorney. Northey stated that seems preposterous to him. Bob McCarthy gave an example of the Business Development Center where there was two-three purchases made without going through the counties prior... Northey replied that he had heard about it. Bob McCarthy stated that there are other areas where people who have just come in are not following the county's rules. Bob McCarthy replied that they have not gone so far to break state law because there are fail safe procedures in place. Bob McCarthy stated what is being discussed is writing a detailed administrative manual specifying where you can and cannot do things because people who were there previously knew it but now people don't know it. That would be an example. Northey replied that if you put a book in front of people, some people will read and most of them will not. Northey asked isn't there a procedure that is automatic so that some of those decisions do not get made that put the county in a difficult state.

Bob Worley commented that once the Chief Executive becomes an employee of the county, it makes the county liable for his decisions? Bob McCarthy stated that is clearly what the judge stated. Northey replied if for instance, the Chief Executive could not make a decision on certain things without the cooperation of the County Attorney and the Council of Commissioners first, it would take the liability away from the county. It would spread the risk out among people who have had some continuity in government. Bob McCarthy replied that this change in office with the Chief Executive is not the first time BSB has had problems. Bob McCarthy mentioned a women who previously worked in the Law Enforcement Department that won two awards of around half a million dollars and also paid one of her brothers. Northey asked why one of her brothers was involved. Bob Worley replied it was something about working on Sundays and his religion prevented him from working on Sundays. He worked at the jail. It was a Union job and he did not have seniority.

Northey asked why BSB would continually set themselves up for these types of events? Bob McCarthy replied that what that revolved around was she was hired by one sheriff and fired by another. Northey

asked how many more times is this going to happen? Bob McCarthy replied that they have cases where people were hired into new positions in the government who did break the contract laws where they exceeded the competitive bidding laws. BSB was fortunate that the vendors were aware of it because if one does that and they send the items, then law provides the vendor will not get his money or goods back. Bob McCarthy stated that is an area where there is likely to be more problems than anything else. Northey asked is there something they could put in the charter that would transcend those who are experienced in government and would understand the risks of quick decisions made by those who are new working in government since they are not familiar with the policies, laws and legalities that should be helping that decision-making process. Bob McCarthy asked if he was thinking of something like a Review Committee? Northey replied something like that.

Dave Palmer made comment that in the charter, the Chief Executive would have the right to hire people with consent of the council. Dave suggested they could write the same with terminating. Bob McCarthy suggested that they leave termination alone because they do not know what it is going to be. Bob McCarthy suggested they let it be whatever the law is at that time. Northey replied that does not prevent the next Chief Executive from coming in and making the same mistake. Dave Palmer stated that if it needs consent by the Council of Commissioners then it could be reviewed. Bob McCarthy replied that maybe it needs to be that without specifying termination. Maybe it should be a review of any contracts or things of that nature. Bob McCarthy replied what is most likely to happen is someone is going to purchase something and do not have authority to do so. Bob McCarthy stated that purchases is the area that is most violated.

Bob Worley referred to the section where the Chief Executive may discharge tenured employees for cause as provided in accordance with state law. Bob McCarthy stated he thought they should take that whole part out. Bob McCarthy suggested that they rewrite it. Bob Worley asked if Bob McCarthy would write a draft of the language that could be put in Section 4.02 subsection (d). Bob McCarthy stated that he would. Bob McCarthy stated that section has to interface with Section 5.03 because that is the one that states elected officers get to hire their deputies and that creates a problem. Bob McCarthy stated that 4.02 and 5.03 both need to be redone. Bob McCarthy stated he did not know if it was so important who hires them as to who supervises. Bob stated that is the part that is ridiculous. There is a grievance filed and it goes to the Chief Executive. The Chief Executive knows nothing about what that person does in the workplace because he does not supervise him/her.

Cindi Shaw asked what a deputy was. Bob McCarthy replied that a deputy is a person who can act in place of his principal. Dave asked who was the Chief Deputy who worked with Mary McMahon. Bob McCarthy replied it was Pam O'Leary who quit. After she quit, she sued the county. She sued for constructive discharge and won. Meg Sharp stated that meant the workplace was so terrible that she quit? Bob McCarthy replied yes. He stated the whole thing was so crazy because the person she complained about mistreating her was never her supervisor. She had quit before her supervisor took office. She alleged that she was terminated because she was a Hispanic female and that had nothing to do with it. It was part of the Equal Rights Commission although the fact that she was Hispanic or female had nothing to do with it but the county paid.

Bob Worley mentioned that they would like to put something in where the Chief Executive will set some measurable goals. Bob McCarthy asked them to look at Section 4.02 (6). Bob McCarthy stated that is something that should be removed. Bob McCarthy thought it was a good idea add to write something where the Chief Executive would have to set measurable goals. Northey commented that they trying to create more of an ability for the county to get above the mess they get into with their day-to-day activities and start thinking of future benefits and improvements by setting goals and let the Chief Executive and County Commissioners work more closely together. Bob McCarthy commented to take caution to when people are elected, you lose control and the public believes it to be the other way.

End of Tape One, Side Two

Bob McCarthy stated there is no reason you could not do something similar to what companies do where you have goal-oriented management.



Northey commented that they could be specific on what areas would be reported such as the area of Finance or Public Works and these reports could be done quarterly or annually.

Dave Palmer commented that Don Peoples followed it the closest of anybody. He did a report to the council on what was going on almost every week or at least once a month. Bob McCarthy replied that he did that a lot and he went to more seminars and training sessions than anyone did. He worked harder than anyone else.

Northey commented in addition those goals would be spelled out and publicized in the paper. There would be a grading on how well the Chief Executive did on meeting those goals.

Bob McCarthy did not see why they could not put in that the Chief Executive evaluates the department heads annually. Bob McCarthy explained at the state level, you have department heads that are political figures. Below them is a career person. These departments at the state level are administered by a person who is at the top. All the people work for somebody who is a professional.

Dave Palmer asked if they could take a look at Section 4.02 (13c). Bob McCarthy stated these are the areas where the Study Commission could have some kind of effect. He stated it would be harder to get performance from the Chief Executive. Northey asked if they wrote in there that there is to be a published document that relates to his performance at least someone could point out that he is supposed to be doing that. Bob McCarthy stated the part about the Chief Executive evaluating the department heads; he did not see why that should not be successful. Bob McCarthy commented the whole part about complaints with personnel policies has been a problem. That is something that has to be flushed out or in the code of the personnel manual itself. That is an area that has been ignored. Northey commented that he remembers it being said that the personnel issues in BSB have been convoluted, the written policies are. Bob McCarthy replied that they are complying by the strict letter of the law and they adopted one. It does not say anything. It just says they will have one. They don't review it or pay any attention to it. It does not make any sense. There are provisions that are contradictory. Bob McCarthy believed it would be something the council would have to fix.

Bob Worley mentioned that they have discussed there being more control over some of the elected offices, one being an appointed sheriff versus an elected sheriff.

Bob Worley mentioned that he had met with the Police Commission about it and they do not have a problem with it. They are going to present at one of the Study Commission meetings.

Bob McCarthy mentioned the Fire Department being non-political. Bob McCarthy mentioned again how the Police Department is different because of the stress that is involved. Bob Worley brought up the availability of a professional coming in to talk to police officers. Bob Worley asked if the county was offered services through Blue Cross/Blue Shield. Bob McCarthy replied that county employees are self-insured through EAP but nobody uses it. He suggests that there should be a Training Officer at the Law Enforcement Department all the time.

Dave Palmer recommended that 4.02 ( c ) be removed.

Bob McCarthy mentioned one thing they could think about is in Missoula they have an Administrative Assistant who is not hired by the mayor and it is a full-time, non-political position. That person is close to being a manager so when there is a change in administration, there is a person working in that office who already knows how to do it.

Bob Worley asked that everyone review the information he requested from Mary McMahon.

***Date of Next Meeting:*** October 27, 2005.

***Adjournment:*** Meg Sharp moved for adjournment and Dave Palmer seconded.